



Public Information Request Tracking

Search Fields (enter information in one or more fields to search)

Requestor Name: william

Request Date:

Forwarded To:

Due Date:

Public Request ID: 77

Response Due Date: 9/22/2015

Date Of Request: 9/11/2015

Closed Date: 9/23/2015

Requestor Name: William Nye

Documentation:

Requestor Address: Warwick, RI 02889

Requestor Phone: (401) 474-0125

Requestor E-mail: kcizi1096@hotmail.com

Notes:

Requested Records: A copy of the legal opinion and request to law dept, related to the determination that "The City can not recognize you as the rightful owner..." as stated in

information rec'd from Legal Dept.
Peter Ruggiero - Appeal filed 09-29-2015 - Response to appeal sent 10-07-

Time Period: June 21, 2012 - letter

Received By: City Clerk's Office

Received Date: 9/11/2015 **Received Time:** 1:30 PM

Costs:

Number Of Billable Hours:

Number Of Pages:

Cost Due:

Date Paid:

Forwarded to: Peter Ruggiero, Legal Dept.

Forward Date: 9/11/2015 **Forward Time:** 2:31 PM

Response From: Judy Wild, City Clerk

Response Date: **Response Time:**

Search Fields (enter information in one or more fields to search)

Requestor Name: william

Request Date:

Forwarded To:

Due Date:

Public Request ID: 21

Response Due Date: 5/19/2015

Date Of Request: 5/7/2015

Closed Date: 5/12/2015

Requestor Name: William Nye

Documentation:

Requestor Address: Warwick, RI

Requestor Phone: (401) 474-0125

Requestor E-mail:

Notes:

WILD JUDY

From: WILD JUDY
Sent: Wednesday, October 07, 2015 10:20 AM
To: 'kc121096@hotmail.com'
Cc: Mayor Scott Avedisian; Peter Ruggiero (peter@rubroc.com); PICOZZI DAVID
Subject: Public Request Appeal
Attachments: DOC100715.pdf

Mr. Nye, please see attached Appeal to Public Records Response. Thank you.

Judy Wild
City Clerk
3275 Post Road
Warwick, RI 02886



CITY OF WARWICK
OFFICE OF THE CITY CLERK
3275 POST ROAD
WARWICK, RHODE ISLAND 02886
TEL. (401) 738-2000, ext. 6221
FAX (401) 738-6639
T.D.D. 739-9150

SCOTT AVEDISIAN
MAYOR

Judy Wild
CITY CLERK

Mr William Nye
By E-Mail Only
kc121096@hotmail.com

Re: Appeal of Access to Public Records Act Response

Dear Mr. Nye:

On September 11, 2015, you made a request for the disclosure of public records shown on the attached Exhibit 1. In response to your request, the City Clerk's office responded on September 23, 2015, with the attached Exhibit 2.

My office provided the response to your September 11, 2015, request. Since no documents were identified which were responsive to your request, I hereby deny your appeal of my response.

This concludes my consideration of this appeal. You have the right to file a complaint with the Department of the Attorney General or the Superior Court for the County of Kent. Additional information regarding your rights can be found at riag.ri.gov.

Sincerely,

Scott Avedisian, Mayor

CC: Warwick City Clerk

THE CITY OF WARWICK
PUBLIC RECORDS REQUEST FORM
RIGL 38-2-3 (d)

1/3

Name: (optional) WILLIAM NYE

Address: (optional) _____

City: WARWICK State: RI Zip Code: 02883Phone: (optional) 401-2125 6666 E-mail address: (optional) KC121096@HOTMAIL.COMDate: SEP 11, 2015

Record(s) Requested:

A COPY OF THE LEGAL OPINION, AND REQUEST TO LAW DEPT.,
RELATED TO THE DETERMINATION THAT "THE CITY CAN
NOT RECOGNIZE YOU AS THE RIGHTFUL OWNER..."
AS STATED IN CITY'S LETTER DATED JUNE 21, 2012

Time period request covers:

JUNE 21, 2012 - LETTER ATTACHEDCOPY OF ART. VII, §-4 ATTACHED

Please Note: Per section 38-2-3 (d) the policy of the City of Warwick is that this form be filed with the office of the City Clerk. The Clerk's office will then forward the request to the appropriate department for response. Per section 38-2-4 of the Rhode Island General Laws, the City will charge a fee of .15 per page for copies of public documents, unless such documents have a fee structure which is prescribed by state statute. Additionally, if the requested information requires research on the part of City personnel, the City will charge a research fee of \$15.00 per hour and/or the cost of retrieving records from storage where the public body is assessed a retrieval fee. The first hour (1 hour) of research, however, will be provided at no charge. If after review of your request the department determines that the requested records are exempt from disclosure for a reason set forth in RIGL 38-2-2(4)(I)(A) through (Y), the City reserves its right to claim such exemption.

=====

(FOR CITY USE ONLY) Request taken by: _____

Date: _____ Time: _____

Costs: _____ for copies _____ for search and retrieval

RECEIVED
CITY CLERK'S OFFICE
WARWICK, RI

SEP 11 2015

1:30 p.m.

JWS

EXECUTIVE CHAMBER

CITY OF WARWICK



RHODE ISLAND

SCOTT AVEDISIAN
MAYOR

June 21, 2012

Mr. William Nye
251 Tiffany Avenue
Warwick, Rhode Island 02889

Dear Mr. Nye:

I am writing in response to your request for a written statement stating the city's position and reasons regarding the assessment of a parcel of land. In your letter you state that you have spoken with various city officials including Mr. Carruolo, Mr. Mallette and Mr. DePasquale and that they have suggested that you initiate an Administrative Subdivision transferring the property. You further state that there is a court judgment awarding you the property and you go on to express your opinion that the judgment should be regarded as the law on the matter and that the Administrative Subdivision would essentially replace that judgment. Finally, you state that the requirement to record an Administrative Subdivision is contrary to good public policy, invalid and wrong.

While you have a court judgment awarding you ownership of the subject parcel, I call your attention to RIGL 45-23-25, the "Rhode Island Land Development and Subdivision Review Enabling Act of 1992," the actual law on the matter. The Development Review act governs all subdivisions and defines an Administrative Subdivision as the "Re-subdivision of existing lots which yields no additional lots for development... The re-subdivision only involves divisions...or adjustments of boundaries of existing lots."

While you may have a court judgment awarding you the property, the city can not recognize you as the rightful owner until you formally transfer the property via Administrative Subdivision; and while you may not believe that this is good public policy and that it is invalid and wrong, the city is required to follow the law on this matter.

Sincerely,

Scott Avedisian
Mayor

c: Mark Carruolo, Chief of Staff
Ken Mallette, Tax Assessor
William DePasquale, Planning Director

RECORDED
Oct 31, 2014 09:46A
Marie Y. Ahlert, City Clerk
City of Warwick, RI

3/3

WARWICK CHARTER

ARTICLE VIII

8-4. - Law department.



There shall be a law department, the head of which shall be the city solicitor who shall be appointed by the mayor with the advice and consent of the city council. The city solicitor shall be an attorney-at-law in good standing who has been admitted to practice in this state at least five (5) years prior to his appointment.

The city solicitor shall be attorney for the city and legal advisor of the council if requested, and of all officers, departments and agencies. The city solicitor shall perform such other duties as may be prescribed by the council. The city solicitor will have the authority to appoint additional assistant solicitors as needed, or engage a law firm to perform the legal services for the city.

The city solicitor shall supervise and maintain a codification of the ordinances of the city of a substantive character which are appropriate for continuation as local laws, but the original copies of all ordinances shall remain in the office of the city clerk during such codification. All
→ legal opinions furnished to the council and to all city officers, departments and agencies, shall be in writing and filed with the city clerk, as a public record, together with the resolution, letter or other memorandum requesting the opinion.

(Ref. of 11-3-98)

WILD JUDY

From: W Nye <kc121096@hotmail.com>
Sent: Tuesday, September 29, 2015 7:01 AM
To: Mayor Scott Avedisian
Cc: WILD JUDY
Subject: APRA Appeal (re: denial of Sept 11, 2015 APRA request)
Attachments: APRA_request_11SEP2015.PDF; reply_unsigned.pdf

TO:
Mayor Scott Avedisian
City of Warwick, RI

Subject: APRA APPEAL (pursuant to § 38-2-8, Administrative appeals)

This appeal is directed to the city's chief administrative officer, pursuant to § 38-2-8 Administrative appeals.

The city has not released any documents responsive to my APRA request, submitted to the city on September 11, 2015. The APRA statute places the burden of proof on the agency, to show requested documents can be properly withheld. The city has not proven there are no records responsive to my request, or that records can be withheld.

The city's (purported) one-page response is on a piece of plain paper, sent to me as a scanned email attachment. The paper does not show the city's letterhead. The paper is not signed. The paper states, in part, "there is no documentation". The paper fails to state what department processed my request, and fails to state what steps were taken, if any, to locate the requested documents.

The paper also states "your request was regarding a letter dated 06-21-2002", which is not a correct date, and therefore does not reflect my request.

The paper also states the APRA statute, RIGL 38-2-8, regarding administrative appeals, "does not apply". This is essentially an instruction telling me to not file this administrative appeal. This instruction is an unsupported and erroneous legal opinion, and has the appearance of an attempt to evade the requirements of the APRA by the city.

As allowed by the statute, I hereby petition the chief administrative officer for a review of the denial of my APRA request. Please provide any reply on city letterhead, with any necessary signatures.

A copy of my request, and the one-page reply, is attached to this email.

William Nye
Sept 29, 2015

TITLE 38

Public Records

CHAPTER 38-2

Access to Public Records

SECTION 38-2-8

§ 38-2-8 Administrative appeals. – (a) Any person or entity denied the right to inspect a record of a public body may petition the chief administrative officer of that public body for a review of the determinations made by his or her subordinate. The chief administrative officer shall make a final determination whether or not to allow public inspection within ten (10) business days after the submission of the review petition.

(b) If the custodian of the records or the chief administrative officer determines that the record is not subject to public inspection, the person or entity seeking disclosure may file a complaint with the attorney general. The attorney general shall investigate the complaint and if the attorney general shall determine that the allegations of the complaint are meritorious, he or she may institute proceedings for injunctive or declaratory relief on behalf of the complainant in the superior court of the county where the record is maintained. Nothing within this section shall prohibit any individual or entity from retaining private counsel for the purpose of instituting proceedings for injunctive or declaratory relief in the superior court of the county where the record is maintained.

(c) The attorney general shall consider all complaints filed under this chapter to have also been filed pursuant to the provisions of § 42-46-8(a), if applicable.

(d) Nothing within this section shall prohibit the attorney general from initiating a complaint on behalf of the public interest.

History of Section.

(P.L. 1979, ch. 202, § 1; P.L. 1981, ch. 279, § 2; P.L. 1998, ch. 378, § 1; P.L. 2006, ch. 378, § 1; P.L. 2006, ch. 472, § 1; P.L. 2012, ch. 448, § 1; P.L. 2012, ch. 454, § 1.)

EXHIBIT 2

To: William Nye

Re: Public Request of 09-11-2015

From: Judy Wild, City Clerk's Office

Date: September 23, 2015

Thank you for your public records request of September 11, 2015.

This response will complete this request.

Record(s) requested:

A Copy of the legal opinion, and request to law dept., related to the determination that "the City cannot recognize you as the rightful owner..." as stated in city's letter dated June 21, 2012.

Response:

There is no documentation responsive to your request.

Your request was regarding a letter dated 06-21-2002 from the Mayor therefore the portion of RIGL 38-2-8 to appeal this decision to the Mayor does not apply.

You may also file a complaint with the Department of the Attorney General 150 South Main Street, Providence, RI 02903 or the Rhode Island Superior Court of the county where the record(s) are maintained. Additional information concerning access to Public Records Act may be available through the Attorney General's website at www.riag.ri.gov.

Thank you for your interest in keeping government open and accountable to the public.

EXHIBIT 2

To: William Nye

Re: Public Request of 09-11-2015

From: Judy Wild, City Clerk's Office

Date: September 23, 2015

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This response will complete this request.

Record(s) requested:

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Response:

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Thank you for your interest in keeping government open and accountable to the public.

THE CITY OF WARWICK
PUBLIC RECORDS REQUEST FORM
RIGL 38-2-3 (d)

1/3

Name: (optional) WILLIAM NYE

Address: (optional) _____

City: WARWICK State: RI Zip Code: 02829Phone: (optional) 474-0125 CELL E-mail address: (optional) KC121096@HOTMAIL.COMDate: SEP 11, 2015

Record(s) Requested:

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RELATED TO THE DETERMINATION THAT "THE CITY CAN
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RECEIVED
CITY CLERK'S OFFICE
WARWICK, RI

SEP 11 2015

1:30 p.m.

JWS

EXECUTIVE CHAMBER

CITY OF WARWICK



RHODE ISLAND

SCOTT AVEDISIAN
MAYOR

June 21, 2012

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Sincerely,

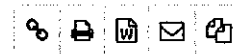
Scott Avedisian
Mayorc: Mark Carruolo, Chief of Staff
Ken Mallette, Tax Assessor
William DePasquale, Planning DirectorRECORDED
Oct 31, 2014 09:46A
Marie T. Ahlert, City Clerk
City of Warwick, RI

3/3

WARWICK CHARTER

ARTICLE VIII

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(Ref. of 11-3-98)